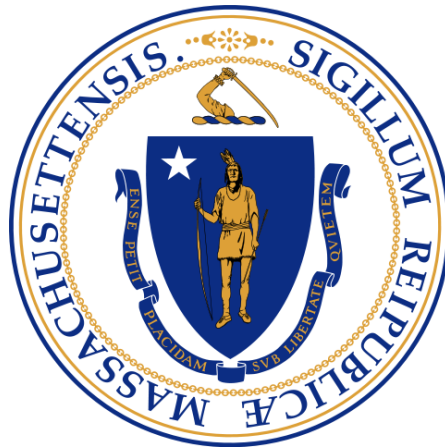


Division of Administrative Law Appeals

The Executive Office for Administration and Finance
Commonwealth of Massachusetts



Performance Report
Fiscal Year 2014

Richard C. Heidlage
Chief Administrative Magistrate

Letter from the Chief Magistrate

This document provides the Division of Administrative Law Appeals' second annual performance report. The Division's mission is to provide, on a timely basis and with the limited resources available to us, due process administrative adjudications that are a precondition of other agencies' operations. We are a "central panel," meaning that we are independent of the agencies for which we provide adjudications. We are therefore uniquely situated to provide adjudications and decisions that are both fair, independent and impartial in fact and that are perceived by the public to be so. We are meeting that fundamental objective and are proud of our performance in that regard.

MISSION

General Jurisdiction: Provide the due process adjudications that are the pre-condition of other agencies' Final Agency Action.

The Bureau of Special Education Appeals: Provide dispute resolution resources to resolve disputes among interested parties concerning special education services and procedural protections for students with disabilities.

VISION

To be recognized as the best choice for providing due process administrative adjudications and other forms of administrative dispute resolution in the Commonwealth.

For the Division's procedures to be recognized as the standard for administrative dispute resolution in the Commonwealth.

Richard C. Heidlage
Chief Administrative Magistrate

As an organization affiliated with the Executive Office of Administration and Finance (A&F), the Division of Administrative Law Appeals goals reflect and bolster the commitments of A&F to bring about Better Finance, Better Health Care, Better Performance and Better Government.

This report was developed pursuant to Executive Order 540, Governor Patrick's directive to embed strategic planning and performance management across state government. The Division of Administrative Law Appeals' FY14 Performance Report describes progress achieved against the goals set out in its 2013-2015 Strategic Plan.



Please send feedback
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Performance Narrative

The most significant measure of performance within our control is our affirmance rate which is excellent at 90.7%. While, as we point out, there are limitations on this measure because of the multi-year progress of cases on appeal and the fact that we are not normally parties to appeals and therefore may not be informed of an outcome, our high affirmance rate reflects our commitment to impartiality, integrity and expertise in our areas of substantive jurisdictions. In every case our objective is to get the law right 100% of the time. However, the statutory provisions at issue in our cases are recognized by the courts to be among the most complicated in the law. Accordingly, an objective of 100%, although aspirational, would be unrealistic.

Our performance and ability to meet the optimal delivery of due process continue to suffer, however, from the case backlog that had been built up over the prior fourteen years. The existence of a backlog representing over three years of our current capacity to process cases translates into an ever increasing caseload age and delay for non-priority cases. Currently we are able to process only priority cases for the most part, those cases being the client agencies' enforcement cases and retirement disability cases. Non-priority, primarily public employment retirement enhanced benefit cases, continue to increase in age and adversely affect our case age statistics. While our current performance report demonstrates that we are continuing to make modest inroads into the backlog, our long-term performance shows that the only practical solution to reducing the backlog is the application of additional resources. For this reason, the legislature and Administration have provided in FY 2015 an additional \$100,000 to begin developing a cadre of part-time, temporary contract magistrates who will be employed to hear backlog cases and large blocks of expedited cases that cannot be accommodated by the Division's permanent staff.




General Jurisdiction: Eliminate the Current Backlog of Pending Cases

Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of General Jurisdiction cases in the backlog	1,889	1,825	1,752	Improving	<1,825		Data compares FY12, FY13 and FY14. Excludes "rate cases" from the Division of Health Care Finance and Policy, as progress on these cases is limited primarily by resources of the parties and does not reflect DALA performance.
Number of General Jurisdiction cases opened	714	641	572	NA	NA	NA	Data compares FY12, FY13 and FY14. Excludes "rate cases" for reasons stated above. Targets are not appropriate as DALA does not control the number of cases filed.
Number of General Jurisdiction cases closed	592	705	645	Stable	>572		Data compares FY12, FY13 and FY14. Excludes "rate cases" for reasons stated above. Target is to close more cases than are opened (thus reducing backlog).



STATUS LEGEND		=> Target		=> 75% to <99%		< 75% of Target	NA	Not Applicable
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General Jurisdiction: Ensure Timeliness and Efficiency of Adjudications

Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Percentage of total General Jurisdiction case load open between 0-180 days	14.0%	12.6%	15.0%	Improving	NA	NA	Data compares FY12, FY13 and FY14. Targets cannot be set because different types of cases have different average durations, and the mix of cases is not within DALAs control. The general trend will be for this to worsen as the backlog ages.
Percentage of General Jurisdiction total case load open between 181-365 days	14.0%	12.3%	10.8%	Improving	NA	NA	Data compares FY12, FY13 and FY14. Targets cannot be set because different types of cases have different average durations, and the mix of cases is not within DALAs control. The decrease in this measure reflects the increase in the 0-180 day measure above. The general trend will be for this to worsen as the backlog ages.
Percentage of General Jurisdiction total case load open greater than 365 days	72.0%	75.1%	74.2%	Stable	NA	NA	Data compares FY12, FY13 and FY14. Targets cannot be set because different types of cases have different average durations, and the mix of cases is not within DALAs control. Although this measure is stable, the overall age of the case mix will continue to worsen as the backlog ages.
Ratio of General Jurisdiction hearings per cases closed	0.355	0.366	0.361	Stable	NA	NA	Data compares FY12, FY13 and FY14. The ratio of evidentiary hearings to cases closed may be a measure of case management efficiency, although ultimately the nature of the case itself determines whether an evidentiary hearing is required. The objective of management is to ensure that cases not requiring an evidentiary hearing are not scheduled for one.




STATUS LEGEND		=> Target		=> 75% to <99%		< 75% of Target	NA	Not Applicable
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General Jurisdiction: Ensure that Staff Continue to Exemplify the Highest Level of Impartiality, Integrity, and Expertise in the Substantive Areas of Law Applicable to DALA Adjudications


Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Percentage of General Jurisdiction decisions affirmed	NA	86.3%	90.7%	Improving	>90%		Data compares FY13 and FY14. See Measure Descriptions table for more details on the calculation of this measure.
Percentage of General Jurisdiction decisions reversed or remanded	NA	13.7%	9.3%	Improving	<10%		Data compares FY13 and FY14. See Measure Descriptions table for more details on the calculation of this measure.

General Jurisdiction: Develop Mechanisms and Procedures to Minimize Parties Costs and Enhance Customer Service

Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of General Jurisdiction cases heard in remote locations	NA	41	54	Improving	NA	NA	Data compares FY13 and FY14. New program. Whether target is appropriate will be determined as the program matures. When possible, cases should be heard where most convenient for the parties. Where this may be for a particular case is not within our control. Budget constraints make substantial magistrate travel to remote locations impossible.




STATUS LEGEND		=> Target		=> 75% to <99%		< 75% of Target	NA	Not Applicable
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Bureau of Special Education Appeals: Ensure that Staff Continue to Exemplify the Highest Level of Impartiality, Integrity, and Expertise in the Substantive Areas of Law Applicable to DALA Adjudications

Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Percentage of Bureau of Special Education Appeals mediations resulting in agreement	85.6%	86.2%	84.3%	Stable	80-90%		Data compares Federal FY12, Federal FY13 and Federal FY14. BSEA Statistics are based on the federal fiscal year commencing October 1 of each year.

Bureau of Special Education Appeals: Maintain Current Quality of Dispute Resolution of Special Education

Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of Individualized Education Programs (IEPs) in the Commonwealth	163,679	163,921	164,366	NA	NA	NA	Data compares Federal FY12, Federal FY13 and Federal FY14. Targets aren't appropriate as IEP cases are based on demonstrated need.
Number of Bureau of Special Education Appeals cases opened	8,460	8,860	9,830	NA	NA	NA	Data compares Federal FY12, Federal FY13 and Federal FY14. Targets aren't appropriate as IEP cases are based on demonstrated need.
Number of FIEPs conducted	143	140	150	NA	NA	NA	Data compares Federal FY12, Federal FY13 and Federal FY14. Targets aren't appropriate as IEP cases are based on demonstrated need.
Number of IEP mediations conducted	917	818	790	NA	NA	NA	Data compares Federal FY12, Federal FY13 and Federal FY14. Targets aren't appropriate as IEP cases are based on demonstrated need.
Number of IEP hearings held	52	30	25	NA	NA	NA	Data compares Federal FY12, Federal FY13 and Federal FY14. Targets aren't appropriate as IEP cases are based on demonstrated need.

STATUS LEGEND		=> Target		=> 75% to <99%		< 75% of Target	NA	Not Applicable
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Looking Forward

Looking forward, our principal new initiative will continue to be the development and implementation of the part-time contract magistrate program, assuming it continues to be funded by the legislature at current or higher levels. Elimination of the backlog must continue to be our highest priority because its existence is the primary impediment to timely adjudications.

Measure Descriptions

GOAL	MEASURE	DESCRIPTION
General Jurisdiction: Eliminate the current backlog of pending cases	Number of General Jurisdiction cases in the backlog	This measure tracks the total count of non-BSEA cases in the backlog by agency/category. It excludes "rate cases" from the Division of Health Care Finance and Policy, as progress on these cases is limited primarily by resources of the parties and does not reflect the Divisions performance.
	Number of General Jurisdiction cases opened	This measure tracks the total number of new non-BSEA cases opened by agency/category. It excludes "rate cases" from the Division of Health Care Finance and Policy, as progress on these cases is limited primarily by resources of the parties and does not reflect the Division's performance.
	Number of General Jurisdiction cases closed	This measure tracks the total number of non-BSEA cases closed. It excludes "rate cases" from the Division of Health Care Finance and Policy, as progress on these cases is limited primarily by resources of the parties and does not reflect the Division's performance.
General Jurisdiction: Ensure timeliness and efficiency of adjudications	Percentage of total General Jurisdiction case load open between 0-180 days	This measure tracks the percent of the caseload, excluding BSEA and rate setting cases, open between 0-180 days.
	Percentage of General Jurisdiction total case load open between 181-365 days	This measure tracks the percent of the caseload, excluding BSEA and rate setting cases, open between 181-365 days.
	Percentage of General Jurisdiction total case load open greater than 365 days	This measure tracks the percent of the caseload, excluding BSEA and rate setting cases, open greater than 365 days
	Ratio of General Jurisdiction hearings per cases closed	This measure tracks the total number of cases heard divided by the total number of cases closed.

GOAL	MEASURE	DESCRIPTION
General Jurisdiction: Ensure that staff continue to exemplify the highest level of impartiality, integrity, and expertise in the substantive areas of law applicable to DALA adjudications	Percentage of General Jurisdiction decisions affirmed	<p>This measure tracks decisions or recommended decisions adopted by agency or affirmed by the next administrative or judicial level for General Jurisdiction cases, divided by the total number of General Jurisdiction decisions issued. This statistic is not maintained by fiscal year as DALA normally will not know the disposition in courts until many years later. As a result, DALA reports the outcomes, to the extent it knows them, for all cases originally filed in the last five years on a rolling basis. For cases in which DALA issued a recommended decision and an agency adopts it as the Final Agency Decision, only the agency, and not DALA, will be a party to any subsequent appeals. Generally, DALA will not be informed of the outcome of the appellate process on such cases.</p>
	Percentage of General Jurisdiction decisions reversed or remanded	<p>This measure tracks decisions or recommended decisions reversed or remanded by the next administrative or judicial level for General Jurisdiction cases, divided by the total number of General Jurisdiction decisions issued. This statistic is not maintained by fiscal year as DALA normally will not know the disposition in courts until many years later. As a result, DALA reports the outcomes, to the extent it knows them, for all cases originally filed in the last five years on a rolling basis. For cases in which DALA issued a recommended decision and an agency adopts it as the Final Agency Decision, only the agency, and not DALA, will be a party to any subsequent appeals. Generally, DALA will not be informed of the outcome of the appellate process on such cases.</p>
General Jurisdiction: Develop mechanisms and procedures to minimize parties costs and enhance customer service	Number of General Jurisdiction cases heard in remote locations	<p>This measure tracks the total number of hearings held in remote locations.</p>

GOAL	MEASURE	DESCRIPTION
Bureau of Special Education Appeals: Ensure that staff continue to exemplify the highest level of impartiality, integrity, and expertise in the substantive areas of law applicable to DALA adjudications	Percentage of Bureau of Special Education Appeals mediations resulting in agreement	This measure tracks the percent of Bureau of Special Education Appeals mediations resulting in agreement.
Bureau of Special Education Appeals: Maintain current quality of dispute resolution of special education appeals	Number of Individualized Education Programs (IEPs) in the Commonwealth	This measure tracks the number of Individualized Education Programs (IEPs) in the Commonwealth. An IEP sets out an educational program for a public school student with a disability that meets federal and state requirements for special education.
	Number of Bureau of Special Education Appeals cases opened	This measure tracks the total number of cases opened by the Bureau of Special Education Appeals (BSEA). BSEA, a bureau of the Division of Administrative Law Appeals, is primarily federally funded and provides a broad range of dispute resolution services concerning eligibility, evaluation, placement, individualized education programs, special education services and procedural protections for students with disabilities.
	Number of FIEPs conducted	This measure tracks the number of Facilitated Individualized Education Program (FIEP) meetings conducted. A FIEP is a facilitated, collaborative process between students, families and educators to develop an educational program for a public school student with a disability that meets federal and state requirements for special education.
	Number of IEP mediations conducted	This measure tracks the number of Individualized Education Program (IEP) mediations conducted. An IEP sets out an educational program for a public school student with a disability that meets federal and state requirements for special education.
	Number of IEP hearings held	This measure tracks the number of Individualized Education Program (IEP) hearings held. An IEP sets out an educational program for a public school student with a disability that meets federal and state requirements for special education.

Noteworthy Changes, Additions or Deletions

No noteworthy changes, additions or deletions.